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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,439	10/30/2003	Gerald Popek	U000-P03142US	3270
33356 7590 07/02/2008 SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362				
EXAMINER				
TIV, BACKHEAN				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/699,439

**Applicant(s)**

POPEK ET AL.

**Examiner**

BACKHEAN TIV

**Art Unit**

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/88)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

***Detailed Action***

Claims 1-58 are pending in this application. This is a response to the Remarks filed on

3/25/08. This action is made **FINAL**.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 7,159,014 issued to Kausik in further view of US Publication 2004/0068579 issued to Marmigere et al.(Marmigere).

As per claims 1, 15, 18, 31, 45, Kausik teaches a method for increasing the throughput of network communications(col.1, lines 15-20) comprising: receiving a response from a server(col.3, lines 5-10), reviewing the response to determine whether the response includes a native expiration(Figs. 2-6, col.5, lines 30-37) when the response does not include the native expiration(Figs.2-6, col.5, lines 17-17-30 ) calculating a calculated expiration for the response(Figs.2-6, col.5, lines 15-35, col.6, lines 18-25); inserting the calculated expiration into the response creating an amended response(Figs.2-6, col.5, lines 15-35) forwarding the amended response to a requester(col.5, line 45) when the response includes the native expiration, forwarding the response to the requester(col.1, lines 40-45, col.4, lines 43-46);

Kausik however does not explicitly teach a processor a memory coupled with the processor a storage medium having instructions stored thereon which when executed cause the computing device to perform actions evaluating whether a content type of the response is appropriate when the content type of the response is appropriate evaluating whether the response has a status code that is actionable.

Marmigere teaches a processor a memory coupled with the processor a storage medium having instructions stored thereon which when executed cause the computing device to perform actions evaluating(Fig.1; teaches computers which have processors and memory) evaluating whether a content type of the response is appropriate(Figs. 2-9, para.0015-0019) when the content type of the response is appropriate(Figs. 2-9, para.0015-0019) evaluating whether the response has a status code that is actionable(para.0049).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kausik, to include evaluating whether a content type of the response is appropriate; when the content type of the response is appropriate; evaluating whether the response has a status code that is actionable as taught by Marmigere in order to determine whether to update objects from a web content server(Marmigere, para.0001).

One ordinary skill in the art would have been motivated to combine the teachings of Kausik and Marmigere in order to determine whether to update objects from a web content server(Marmigere, para.0001).

As per claims 2, 32, 46 wherein the server comprises an origin server(Kausik, col.5, lines 10-15).

As per claims 3,17,25,36,50, comprising: receiving a request for an object from the requester(Kausik, col.5, line 10); forwarding the request to the server(Kausik, col.5, line 13); storing the amended response(Kausik, col.5, line 40-45); providing the amended response to other requesters that request the object, the providing achieved without additional communication with the server(Kausik, col.5, lines 45-56).

As per claims 4,37,51 wherein, when the response includes the native expiration, forwarding the response to the requester(Kausik, col.2, lines 50-59).

As per claims 5,23,38,52, wherein the computed expiration is based on at least one of a response content type and a response resource identifier(Kausik, col.3, lines 58-col.4, lines 15).

As per claims 6,24,39,53, wherein the computed expiration is based on a time-to-live(Kausik, Figs. 2-6, col.5, lines 30-37).

As per claims 7,33,47, further comprising: evaluating whether a content type of the response is appropriate; performing the reviewing only when the content type of the response is appropriate(Kausik, col.3, lines 58-col.4, lines 15).

As per claims 8,21,34,48, wherein the evaluating whether a content type of the response is appropriate comprises checking to determine whether the content type is in an appropriate type list(Kausik, col.3, lines 58-col.4, lines 15).

As per claims 9,22,35,49, wherein the appropriate type list comprises at least one of graphic, JavaScript, Cascading Style Sheet, portable document format (PDF),

executable program, audio, video, and multimedia(Kausik, col.3, lines 58-col.4, lines 15).

As per claims 10,26,40,54, wherein the receiving a request comprises storing request information as request history data(Kausik, col.2, lines 1-2, col.6, lines 1-35).

As per claims 11,27,41,55, wherein the request information includes a request resource identifier, a request content type, and a modification query when the modification query is present(Kausik, Figs.2-6, col.2, lines 1-2, col.6, lines 1-35).

As per claims 12,28,42,56, wherein the computing the computed expiration comprises: evaluating whether the response includes a modification history(Figs.2-6, col.2, lines 1-2, col.6, lines 1-35) when the response includes the modification history, computing a time-to-live for the response based on an age factor, a current time and a value of the modification history(Figs.2-6, col.2, lines 1-2, col.6, lines 1-35) computing the computed expiration based on the current time and the time-to-live(Figs.2-6, col.2, lines 1-2, col.6, lines 1-35) .

Kausik, however does not teach when the response does not include the modification history, retrieving a modification query value from the request history data based on a response type and a response location when the modification query value is retrieved, computing the time-to-live for the response based on an age factor, a current time and the modification query value, computing the computed expiration based on the current time and the time-to-live when the retrieving the modification query value is not successful, forwarding the response to the requester.

Marmigere teaches when the response does not include the modification history, retrieving a modification query value from the request history data based on a response type and a response location(Figs.2-9; modification query value is interpreted to be action code) when the modification query value is retrieved, computing the time-to-live for the response based on an age factor, a current time and the modification query value, computing the computed expiration based on the current time and the time-to-live when the retrieving the modification query value is not successful, forwarding the response to the requester(para. 0049).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Kausik, to include medication query value as taught by Marmigere in order to determine whether to update objects from a web content server(Marmigere, para.0001).

One ordinary skill in the art would have been motivated to combine the teachings of Kausik and Marmigere in order to determine whether to update objects from a web content server(Marmigere, para.0001).

As per claims 13,29,43,57, when the time-to-live is greater than a defined maximum, setting the time-to-live to be the defined maximum; when the time-to-live is less than a defined minimum, forwarding the response to the requester(Kausik, col.4, lines 41-62, col.6, lines 18-20; Marmigere, Figs.2-9; teaches setting a time limit for objects). It is obvious to one ordinary skill in the art at the time of the invention to have a defined maximum and defined minimum of time since Kausik in view of Marmigere teaches setting a time limit for objects.

As per claims 14,30,44,58, wherein the request is a hyper-text transfer protocol (HTTP) get, the modification query value is an HTTP if-modified-since value, and the modification history value is an HTTP last-modified value(Kausik, Figs.2-6).

As per claim 16, wherein evaluating whether the response has a status code that is actionable comprises checking to determine whether the response has a hyper-text transfer protocol (HTTP) status code of "OK" or "Not Modified"(Marmigere, para. 0049). Motivation to combine set forth in claim 15.

As per claim 19, wherein the evaluating whether a content type of the response is appropriate comprises checking to determine whether the content type is a graphic image(Kausik, col.3, lines 58-col.4, lines 15).

As per claim 20, wherein the evaluating whether a content type of the response is appropriate comprises checking to determine whether the content type is one of a Graphics Interchange Format (GIF) file or Joint Photographic Experts Group (JPEG) file(Kausik, col.3, lines 58-col.4, lines 15).

### ***Response to Arguments***

Applicant's arguments filed 3/25/08 have been fully considered but they are not persuasive.

Applicant argues in substance,

- a) Kausik in view of Marmigere does not teach, "status code is actionable",
- b) Kausik in view of Marmigere does not teach, "reviewing the response to determine whether the response includes a native expiration",

c) Kausik in view of Marmigere does not teach, "when the response includes the native expiration, forwarding the response to the requestor",

d) Kausik in view of Marmigere does not teach, "evaluating whether a content type of the response is appropriate",

e) Motivation to combine.

**In reply to a);** The applicant's specification, para.0046, describes an actionable status code as a list which may signify OK, no modified, no changes made, and others. Marmigere, Fig.9, clearly shows actionable status codes, e.g. 200, 304, 301 which signify, OK, Not modified, Redirect, respectively. Therefore, Marmigere teaches actionable status code as described by the specification.

**In reply b);** Kausik, col.5, lines 1-45, teaches a validation of whether an object has expired or not. A determination of whether an object has expiration. Therefore, Kausik in view of Marmigere teaches when the status code is actionable, reviewing the response to determine whether the response includes a native expiration.

**In reply to c);** Kausik, col.1, lines 40-45, col.4, lines 43-46, teaches the user requesting for a web document, the server sends the user the web document with objects that have expiration dates. Kausik in view of Marmigere teaches, when the response includes the native expiration, forwarding the response to the requestor.

**In reply to d);** Marmigere, para.0057-0058, teaches checking a signature of objects against a list and it is determined whether the signature of that object is either on the list or not. One ordinary skill in the art interprets checking the signature against a list, as "evaluating whether a content type is appropriate", since signatures on the list

would be considered to be appropriate and signatures not on the list would be considered inappropriate.

**In reply to e);** In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Marmigere, para.0001, system of determining whether to update objects from a web content server, provides the motivation to combine with Kausik; Kausik and Marmigere system teaches modification of expiration dates of objects.

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571) 272-5654. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2100

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. T./  
Backhean Tiv  
Examiner, Art Unit 2151  
6/27/08

/John Follansbee/  
Supervisory Patent Examiner, Art Unit 2151